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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,022	12/26/2001	Michael Roberts	00216-368004	2417

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FISH & RICHARDSON PC  
P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

EXAMINER
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SPISICH, MARK

ART UNIT	PAPER NUMBER
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3727

NOTIFICATION DATE	DELIVERY MODE
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07/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MICHAEL ROBERTS, THOMAS CRAIG MASTERMAN,  
EDWARD H. PARK, SCOTT BATSON,  
PHILIP SWEENEY, MINGCHIH  
and STEPHEN C. WITKUS

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Application No. 10/036,022  
Technology Center 3727

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Mailed: July 2, 2009

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Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 29, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF, STATUS OF CLAIMS

A review of the file finds that the status of the claims as provided in the Appeal Brief filed December 8, 2008 under the heading “Status of Claims” is unclear and/or is not consistent with the status of claims of record in accordance with 37 CFR 41.37(c)(1)(iii). The status of the claims as provided in the Appeal Brief must be consistent with the last entered amendment. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the last entered amendment finds that claim 55 is canceled; whereas the appellants have not indicated the status of this claim. Correction of the status of all claims is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on December 8, 2008 defective;
- 2) notify Appellants to file a paper properly addressing the status of all claims; and
- 3) for such further action as may be appropriate.

Application No. 10/036,022

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL/

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